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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JEN WEN YANG
Plaintiff,
v.

SHING YUAN YANG aka JACK YANG;
and UNITED STATES DEPARTMENT OF
JUSTICE,
Defendant.

Case No. 2:20-CV-00664-RBF-VCF

**[PROPOSED] ORDER GRANTING
UNITED STATES' MOTION FOR
SUMMARY JUDGMENT**

Pending before the Court is Defendant United States of America's Motion for Summary Judgment. ECF No. 13. Plaintiff Jen Wen Yang filed an Opposition and the United States timely filed a Reply. EFC Nos. 20 and 25. After reviewing the pleadings on file in this matter and oral arguments of the parties, the Court finds and orders as follows:

1. The real property that is the subject of this action is commonly known as 135 East Harmon Avenue, Unit 2704, Las Vegas, Nevada ("Property"), described as follows:

APN: 162-21-316-388

PARCEL ONE (1):

LIVING UNIT 2704 IN BUILDING B OF FINAL MAP OF TURNBERRY/M.G.M. GRAND TOWERS, LLC, TOWER B, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 124 OF PLATS, PAGE 24, AND AS SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND

1 RESERVATION OF EASEMENTS (THE "DECLARATTON") FOR THE
2 RESIDENCES AT MGM GRAND-TOWER B, RECORDED SEPTEMBER 27, 2006 IN
3 BOOK 20060927 AS DOCUMENT NO. 04559, BOTH IN THE OFFICE OF THE
4 COUNTY RECORDER OF CLARK COUNTY, NEVADA.

5 PARCEL TWO (2):

6 AN ALLOCATED INTEREST AS A TENANT-IN-COMMON IN THE
7 COMMON ELEMENTS OF TURNBERRY/M.G.M. GRAND TOWERS, LLC,
8 TOWER B (INCLUDING ANY ANNEXATIONS THERETO), AS SHOWN BY MAP
9 THEREOF ON FILE IN BOOK 124 OF PLATS, PAGE 24, IN THE OFFICE OF THE
10 COUNTY RECORDER OF CLARK COT'NTY, NEVADA, AND AS SET FORTH IN
11 THE DECLARATION.

12 RESERVING THEREFROM FOR THE BENEFIT OF OWNERS IN FUTURE
13 DEVELOPMENT, NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS,
14 EGRESS, USE, ENJOYMENT AND OTHER PURPOSES, ALL AS DESCRIBED IN
15 THE DECLARATION, AS THE SAME MAY FROM TIME TO TIME BE
16 AMENDED AND/OR SUPPLEMENTED IN THE OFFICE OF THE COUNTY
17 RECORDER OF CLARK COUNTY, NEVADA.

18 PARCEL THREE (3):

19 AN EXCLUSIVE EASEMENT APPURTENANT TO THE UNIT
20 REFERENCED ABOVE, OVER THE COMPONENTS SPECIFICALLY ALLOCATED
21 TO SUCH UNIT AS SHOWN ON EXHIBIT H IN THE DECLARATTON.

22 PARCEL FOUR (4):

23 A NON-EXCLUSIVE EASEMENT FOR ACCESS, INGRESS, EGRESS, USE,
24 ENJOYMENT AND OTHER PURPOSES ALL AS DESCRIBED IN THE
25 DECLARATION.

26 2. On November 21, 2006, Defendant Shing Yuan Yang acquired title to the
27 Property.
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1 3. On May 24, 2009, Defendant Shing Yuan Yang executed a Deed of Trust on
2 the Property to secure payment of a Promissory Note in favor of Plaintiff Jen Wen Yang.
3 ECF 1-1, Complaint.

4 4. On August 4, 2014, Defendant Shing Yuan Yang pled guilty to a single charge
5 of Conspiracy in Violation of 18 U.S.C. §371 in the Central District of California, Case No.
6 2:14-cr-00016-JFW. Restitution was ordered in the total amount of \$2,257,866.00, along
7 with a mandatory penalty assessment in the amount of \$100.00.

8 5. On August 13, 2014, a duly authorized delegate of the Department of Justice
9 executed a Notice of Lien for Fine And/Or Restitution in the amount of \$2,257,966.00,
10 which was recorded with the Clark County Recorder on September 9, 2014 as document
11 number 20140909-0001084.

12 6. On September 11, 2018, Plaintiff Jen Wen Yang executed a Substitution of
13 Trustee and Full Reconveyance of the Deed of Trust dated May 24, 2009 which was recorded
14 with the Clark County Recorder on January 29, 2019 as document number 20190129-
15 0000487.

16 7. On March 19, 2019, Jen Wen Yang executed a Rescission of Reconveyance,
17 which purported to “cancel and rescind the Reconveyance to the same extent and effect as
18 through the Reconveyance had never been issued and recorded.” The Rescission of
19 Reconveyance was recorded with the Clark County Recorder on October 16, 2019 as
20 document number 20191016-0002233.

21 8. On March 11, 2020, Plaintiff initiated the instant action to “declar[e] default
22 on the part of defendant Shing Yuan Yang aka Jack Yang, setting the amount due under the
23 deeds of trust, declaring the priority of the deed of trust superior to the claim for the United
24 States government, and to order judicial foreclosure on the property secured by the deed of
25 trust.” ECF 1-1, Complaint.

1 9. The United States filed a motion for summary judgment arguing that its
2 Restitution Lien primes the Plaintiff's Deed of Trust because Plaintiff reconveyed her interest
3 in the Deed of Trust at a time when the United States had a recorded Restitution Lien.

4 10. Because the Court finds that Plaintiff filed a Substitution of Trustee and Full
5 Reconveyance of the Deed of Trust which reconveyed her interest in the Property and
6 because Plaintiff's equitable claims of mistake are not supported by the factual record herein
7 and are insufficient to revive the Plaintiff's Deed of Trust in a priority position over the
8 United States Restitution Lien, the Court finds in favor of the United States.

9 IT IS THEREFORE ORDERED, ADJUDGED and DECREED that defendant
10 United States of America's Motion for Summary Judgment (ECF No. 13) is GRANTED as
11 to Jen Wen Yang's declaratory relief claims seeking a declaration that her deed of trust is
12 superior to the claim of the United States government and finds that the Restitution Lien
13 (recorded as document number 20140909-0001084) in favor of the United States of America
14 is **SUPERIOR** to and primes that of the Plaintiff's Deed of Trust and that the Plaintiff's Deed
15 of Trust is **JUNIOR** to the Restitution Lien of the United States of America insofar as that
16 Plaintiff's Deed of Trust is superior only to those claims which post-date the recording of the
17 Plaintiff's Rescission of Reconveyance on October 16, 2019.

18 IT IS FURTHER ORDERED, ADJUDGED and DECREED that a copy of this
19 Order may be recorded with the Clark County Recorder.

20 DATED this 24th day of September, 2021.

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23 RICHARD F. BOULWARE II
24 UNITED STATES DISTRICT JUDGE
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